

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MOHAN N. HARWANI, M.D.,)	
)	
Plaintiff,)	
)	
v.)	1:21-cv-522
)	
THE MOSES H. CONE)	
MEMORIAL HOSPITAL)	
OPERATING CORPORATION)	
doing business as CONE)	
HEALTH MOSES CONE HOSPITAL)	
doing business as)	
MOSES CONE HOSPITAL, and)	
JONATHAN J. BERRY, M.D.,)	
)	
Defendant(s) .)	

ORDER

This matter is before this court for review of the Recommendation filed on February 28, 2023, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommended that Defendant's Motion to Dismiss be granted in part and denied in part. (Doc 44.) The Recommendation was served on the parties to this action on February 28, 2022. (Doc. 45.) In response, Plaintiff timely filed objections. (Doc. 47.) Defendant responded. (Doc. 48.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 44), is **ADOPTED**. **IT IS FURTHER ORDERED** that Defendant's Motion to Dismiss the Amended Complaint pursuant to Rule 12(b)(6), (Doc. 28), is **GRANTED IN PART** and **DENIED IN PART**, specifically that Defendant's Motion to Dismiss is **GRANTED** as it relates to Plaintiff's Second Claim for Breach of Contract against Defendant Berry and as it relates to the Third Claim for Unfair and Deceptive Trade Practices against Moses Cone.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss is **DENIED** as to the First Claim against both Defendants and the Second Claim for Breach of Contract against Defendant Moses Cone.

This the 31st day of March, 2023.

William L. Osburn, Jr.
United States District Judge